

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

SETH FISHMAN,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2/1/2024

20-cr-160-7 (MKV)

ORDER

MARY KAY VYSKOCIL, United States District Judge:

On the Court's docket are Petitions from Robert Fishman and Hanna Fishman [ECF Nos. 1187, 1188] in response to the Court's Preliminary Order of Forfeiture as to Substitute Assets [ECF No. 1170], which Order forfeits all right, title, and interest of Defendant Seth Fishman in two real properties in Florida. Each Petition "requests that this Court (1) conduct an ancillary proceeding pursuant to 21 U.S.C. § 853(n)(6) and Rule 32.2(c) of the Federal Rules of Criminal Procedure, (2) grant judgment to Petitioner on" his or her "claims to the foregoing property sought to be forfeited as substitute assets, and (3) amend any final order of forfeiture to reflect Petitioner's legal interest in said Properties" [ECF Nos. 1187, 1188]. The Petitions also reflect that Robert Fishman and Hanna Fishman are represented by defense counsel Mr. Kessler.

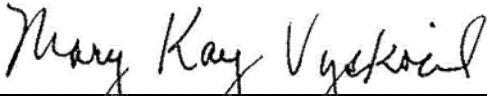
The government has not filed any response to the Petitions, nor opposed the requests that this Court conduct ancillary proceedings. Rather, the government has requested only that the Court endorse a stipulation providing that Robert Fishman will pay HOA Fees and Taxes while his Petition remains pending [ECF No. 1222].

Accordingly, IT IS HEREBY ORDERED that the parties shall file a joint letter by February 8, 2024. The parties must state whether they jointly are requesting that this Court hold resolution of the Petitions in abeyance until the Second Circuit rules on Defendant's appeal. If not, the parties must propose a schedule for briefing and a hearing on the Petitions. The parties must also state

their positions, citing authority, on whether Mr. Kessler's representation of Robert Fishman and Hanna Fishman presents any potential conflict such that the Court should conduct a *Curcio* hearing in advance of any hearing on the Petitions.

SO ORDERED.

Date: February 1, 2024
New York, NY



MARY KAY VYSKOCIL
United States District Judge